



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

40 CRIMINAL WRIT PETITION NO. 1437 OF 2024

Sangita w/o Ramesh Sagar,
Age-55 Years Occ- House wife
R/at. Gurumauli Nivas,
House no. R/1308/1, CTS no. 4407,
Mitra Nagar, Main Road, Latur.

... Petitioner

Versus

1. Usha Tanaji Piske,
Age: 55 years, Occ: Housewife
2. Santosh Tanaji Piske,
Age: 37 years, Occ: Service,
3. Swati Tanaji Piske,
Age: 30 years, Occ: Housewife,
Res nos.1 ot 3 residing at,
Swapnapurti Niwas,
Near Water Tank,
Behind Royal Pan Shop,
Gajanan Marg, Barshi Road,
Latur, Ta. And Dist. Latur.
4. Madhukar Bansilal Gangne,
Age: 41 years, Occ: Service,
R/at. Gayatri Nagar, Latur,
Tq. and dist. Latur.

... Respondents
(Orig. Accused Nos.1 to 4)

5. The State of Maharashtra,
At the Instance of
Shivaji Nagar Police Station.

... Respondents

...

Mr. Avinash M. Reddy, Advocate for the Petitioner.
Mr. Hanmant V. Patil, Advocate for Respondent Nos.1 to 4.
Mr. G. O. Wattamwar, APP for Respondent No.5-State.

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CORAM : SUSHIL M. GHODESWAR, J.

RESERVED ON : 22nd SEPTEMBER, 2025
PRONOUNCED ON : 30th SEPTEMBER, 2025

JUDGMENT:-

1. Heard Mr. Avinash M. Reddy, learned Advocate for the Petitioner; Mr. Hanmant V. Patil, learned Advocate for Respondent Nos.1 to 4; and Mr. G. O. Wattamwar, Learned APP for Respondent No.5-State.

2. **Rule.** Rule made returnable forthwith. By consent of the Advocate for the parties being disposed of finally.

3. The Petitioner is praying for quashing and setting aside the impugned order dated 1st June 2024 passed in Revision Petition No. 54 of 2023 by learned Additional Session Judge-3 at Latur, wherein order dated 7th July 2023 passed below Exh. 36 by learned Chief Judicial Magistrate Court at Latur in R.C.C. No.379 of 2023 discharging Respondents Nos.1 to 4 came to be maintained.

4. Initially based on report of the Petitioner and the chargesheet therein total five Accused were being prosecuted for the offences punishable under Sections 143, 147, 294, 323, 504, 506 read with Section 34 of the Indian Penal Code (IPC). However, vide impugned order dated 7th July 2023 passed by Learned Chief Judicial Magistrate, Latur charge came to be framed against only Accused No.1 and under Section 239 of Cr.P.C. Accused No.2 to 5 i.e. Respondent Nos.1 to 4 herein came to be discharged.

5. The Petitioner i.e. Informant has filed Crime No.91 of 2025. In the said FIR, she alleged that she had rented her ground floor premises to one-Tanaji Pandharinath Piske for the period of 11 months. However, even after expiry of the said period, Tanaji did not vacate the premises, which gave rise to a civil dispute pending between them. On 17th May 2015 at about 8:42 to 9:00 a.m., the Informant-Petitioner had gone to ground floor to switch on the panel board button of the borewell. At that time, it is alleged that the said tenant-Tanaji Piske abused her with abusive words and also assaulted her by fist and kick blows on legs and back. It is also alleged that, thereafter, the said Tanaji made phone call to his wife, daughter-Swati, son-Santosh, his friend-Madhukar (all Respondent Nos.1 to 4) and one unknown woman. All these persons have also abused her in filthy language and threatened to kill her. Therefore, the crime came to be registered against said five persons and one unknown woman for the offences punishable under Sections 143, 147, 294, 323, 504, 506 read with Section 34 of IPC. After completion of investigation, the chargesheet came to be filed against five Accused persons. The present Respondent Nos.1 to 4 are arrayed as Accused Nos.2 to 5 therein.

6. According to Mr. Reddy, learned Advocate for the Petitioner, learned Judicial Magistrate First Class, Latur while passing the impugned order dated 7th July 2023, has not considered material on record. It was contended that in respect of First Information Report

No.91 of 2015, the chargesheet was filed against Respondent Nos.1 to 4. On perusal of the chargesheet, according to him, it appears that sufficient material was collected by the police, thereby pointing out direct role of Respondent Nos.1 to 4 in the commission of the aforesaid offence.

7. He further contended that the material submitted in the final report is attributing specific role of Respondent Nos.1 to 4 in the crime. According to him, in view of sufficient material available against Respondent Nos.1 to 4, learned Lower Courts below ought not to have discharged them. According to him, learned Lower Courts below erred in deciding about the presence of the Accused person on the spot or not. He contended that such exercise was to be carried out by leading evidence to that effect and not at the time while deciding the discharge application. He again further pointed out that there is sufficient material against Respondent Nos.1 to 4 available in the chargesheet as such learned Lower Courts below ought not to have discharged them.

8. On the contrary, learned Advocate for Respondent Nos.1 to 4 took this Court through the statements of witnesses as well as orders passed by learned Chief Judicial Magistrate, Latur. According to him, the incident is dated 17th May 2015. However, FIR is registered on 19th May 2015. In the FIR, the role of Accused Nos.2 to 5 is appearing to be vague and general. According to him, though the incident is dated 17th

May 2015 and one certificate annexed in the charge-sheet discloses nature of injuries of conclusion on the right thigh. The said examination was conducted on 17th May 2015. However, another Discharge Card of MLC/3209/SLS/15 discloses the Petitioner-Informant was admitted to Government Hospital on 27th May 2015 and there were certain multiple contusions and abrasions. The police recorded her statement on 24th May 2015 in the hospital and but the crime was registered on 27th May 2015. The MLC number indicating on the injury certificate indicates that the Petitioner-Informant was admitted on 22nd May 2015 in the Government Hospital and discharged on 27th May 2015. The Crime No.91 of 2015 came to be registered on the basis of statement recorded on 24th May 2015, but same has been registered on 27th May 2015 for the offences punishable under Sections 143, 147, 294, 323, 504, 506 read with Section 34 of IPC. The allegations which are made against Accused No.1 in FIR dated 17th May 2015 are similar allegations made against Accused No.1 in the report dated 27th May 2015. However, the allegations which are made against Respondent Nos.1 to 4 in the earlier report are not similar as made in the later FIR. The statements witnesses, namely, Ramesh Sagar, Nagesh Sagar, Jyoti Nikam and Ashok Kamble are recorded by police on 28th May 2015.

9. Mr. Hanmant Patil, learned Advocate for Respondent Nos.1 to 4 would submit that there is prima-facie case against Accused No.1-

Tanaji. However, there is no material available on record against present Respondents. The allegations appearing against them are vague and obnoxious in nature. No specific role is attributed against any of Accused Nos.2 to 5. Deliberate presence of all the family members at the time of commission of crime is, therefore, not reliable and probable to presume their guilt. However, in second FIR dated 22nd May 2015, the role of Respondent No.1 is deliberately stated and in exaggerated form, the story has been put up against them. He further contended that there is concurrent finding of both the Courts below and as such, in such contingency, it would not be appropriate to interfere with the said concurrent findings. As such, he prayed for maintaining the orders passed by learned Lower Court below.

10. It is clear from the record that the Petitioner had earlier filed a complaint with Shivaji Nagar Police Station, Latur and also to the Superintendent of Police, Latur. The S.P. of Latur directed police to inquire into the complaint. The police therefore recorded the statement of Petitioner on 20.05.2015. The police closed the complaint thereby giving notice under Section 149 of Cr.P.C. to both sides. However thereafter Petitioner got admitted to Government Hospital, Latur on 22.05.2015 and police recorded her statement/complaint on 24.05.2015 and police registered the Crime No.91 of 2015 on 27.05.2015 for the offences punishable under Sections 143, 147, 294, 323 and 506 read with Section 34 of Indian Penal Code.

11. In pursuance to the aforesaid submissions, it is to be stated here that the initial crime discloses that the Accused-Tanaji had quarreled with Petitioner and he assaulted her. However, in second incident, it is stated that the Accused-Tanaji phone called his relative i.e. present Respondent Nos.1 to 4 and asked them to come to the spot. According to the Petitioner, after Respondent Nos.1 to 4 also reached and they have also abused her in filthy language. They also threatened to kill her. The Informant as well as her statements coupled with the statements of other witnesses disclosed that the allegations are specific against the particular Accused No.1. There are general allegations against all the other Accused. The submission of learned Advocate for Respondent Nos.1 to 4 that when Respondent Nos.1 to 4 reached to the spot, there was no meeting of mind between Respondent Nos.1 to 4 and Accused No.1-Tanaji assumes significance. As such, they cannot be held to be the members of unlawful assembly. As there are general allegations of Informant and witnesses, Accused Nos.2 to 5 i.e. Respondent Nos.1 to 4 cannot be said to be the members of unlawful assembly and they also cannot be said to have participated in the crime.

12. The learned Lower Courts below, after considering the submissions of learned Advocate for Respondents No.1 to 4, have passed detailed order after appreciating the material before it. No fault can be found either on facts or on law in the said judgments. The

learned session judge while passing judgment in revision petition was pleased to consider that Respondents Nos.1 to 4 were not present when the incident of assault and abusing took place. Even after their arrival on spot, they in chorus alleged to have abused Petitioner, and there are no specific allegation against the particular Accused. Thus, both the Courts have considered the material in police report available against the Accused persons and accordingly passed their respective judgments.

13. The law regarding exercise of jurisdiction under Article 227 of the Constitution of India is very much clear that High Court in the guise of exercising jurisdiction under Article 227 cannot convert itself into the Court of appeal. The power of Superintendence confirmed by Article 227 is to be exercised most sparingly and only in appropriate cases in order to keep sub-ordinate Courts within the bounds of their authority and not for correcting mere errors. Even under Section 482 of Cr.P.C., this Court would be entitled to interfere and when there is abuse of process of law and particularly when frivolous or malicious proceedings are initiated. In this case, the proceedings against Respondent Nos.1 to 4 is prima-facie found to be unwarranted. Therefore, as the impugned orders passed by learned Lower Court below does not disclose any procedural errors, perversity or violation or breach of any law, and as both the learned Courts below have passed the orders after going through the material before them, the instant

petition therefore fails and needs to be rejected.

14. The view taken by learned Lower Court below on the basis of police final report is correct and proper. In view of this, no case for interference is made out and, therefore, this Court proposes to pass following order.

15. Hence, the instant petition is dismissed. Rule is discharged.
No order as to cost.

(SUSHIL M. GHODESWAR, J.)

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